

No. 03-4477

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED

MAY 04 2004

CARMEN CARTER,

Plaintiff-Appellant,

v.

THE E. W. SCRIPPS COMPANY, Publisher
of the Cincinnati Post and Kentucky Post,

Defendant-Appellee.

LEONARD GREEN, Clerk

O R D E R

Before: SUHRHEINRICH, BATCHELDER, and COLE, Circuit Judges.

This matter is before the court upon consideration of the appellant's motion to remand the case to allow the district court to decide her Fed. R. Civ. P. 60(b) motion to vacate. The appellee has responded arguing that the district court has sole discretion to determine whether it will accept jurisdiction over the Rule 60(b) motion.

A review of the documents before the court indicates that the appellant appealed on November 5, 2003 from the judgment entered October 17, 2003. On December 29, 2003, the appellant filed a Rule 60(b) motion to vacate. If the district court is inclined to grant the Rule 60(b) motion, it may enter an order so indicating and at that point the appellant may file a motion to remand the case to the district court. *See First Nat'l Bank of Salem v. Hirsch*, 535 F.2d 343, 346 (6th Cir. 1976) (per curiam). There is no requirement that a district court rule upon a Rule 60(b) motion while the case is on appeal. *LSL Inv. Co. v. O.L.D., Inc.*, 167 F.3d 320, 324 (6th Cir. 1999).

No. 03-4477

- 2 -

The district court has not entered an order indicating that it was inclined to grant the Rule 60(b) motion.

Accordingly, it is ordered that the motion to remand is denied.

ENTERED BY ORDER OF THE COURT


Clerk